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Dianne Feinstein
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Committee on the Judiciary
United States Senate

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House of Representatives

PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM: Improvements Needed to Strengthen Reporting on 9/11-Related Claims

Public safety officers—law enforcement officers, firefighters, and emergency medical technicians, among others—who die or become totally and permanently disabled as the result of a line-of-duty injury are eligible for benefits from the Department of Justice's (DOJ) Public Safety Officers' Benefits (PSOB) program.¹ Since 2013, the Bureau of Justice Assistance (BJA), which administers the PSOB program, has approved more than 1,700 death and disability claims and provided over \$300 million to eligible officers and their families. The PSOB program provides a one-time, lump-sum payment for approved claims to officers or their surviving family members.² The benefit amount for a covered disability or death occurring during fiscal year 2018 was \$350,079.³

¹The PSOB program was initially authorized by the Public Safety Officers' Benefits Act of 1976, Pub. L. No. 94-430, 90 Stat. 1346 (codified as amended at 34 U.S.C. §§ 10281-10288). It was most recently amended by the Public Safety Officers' Benefits Improvement Act of 2017, Pub. L. No. 115-36, 131 Stat. 849. The PSOB program implementing regulations may be found at 28 C.F.R. pt. 32.

²The one-time lump-sum award is annually adjusted for inflation. According to BJA, under current law, the award amount payable in a death claim is based on the date of the officer's death, and the award amount payable in a disability claim is based on the date on which the officer suffered the catastrophic injury.

³PSOB disability and death benefits are not subject to federal income tax. Approved disability claims receive a single benefit regardless of the number of disabilities claimed, according to BJA officials. Once a payment is made, officials said that claimants cannot reapply for PSOB benefits even when new disabilities are diagnosed. The Public Safety Officers' Educational Assistance program also provides educational assistance (up to \$1,041 per month in fiscal year 2018) to eligible spouses and children of officers killed or disabled in the line of duty who are attending a degree or certification program at an institution of higher education. However, the focus of this correspondence is on PSOB death and disability claims.

In addition, public safety officers who were physically injured or died as a result of the terrorist attacks on September 11, 2001 (9/11), in New York City, Arlington, VA, and Shanksville, PA, or during rescue, recovery, or debris removal efforts in the immediate aftermath, may also be eligible for compensation under the September 11th Victim Compensation Fund (VCF).⁴ Between January 2011 and December 2018, VCF has approved more than 22,000 claims (including some from public safety officers) and provided \$4.8 billion to individuals and their families, according to VCF officials. VCF payments are of varying amounts and some far exceed the PSOB benefit amount.⁵

The Dale Long Public Safety Officers' Benefits Improvement Act of 2012 (Dale Long Act) amended the PSOB program statute to require BJA to offset—that is, reduce—PSOB benefits by the amount of any VCF compensation the claimant has received.⁶ In addition, the VCF program statute requires the Special Master, who administers the VCF, to offset VCF compensation in individual claims by the amount of benefits an individual has received or is entitled to receive as a result of his/her 9/11-related physical injury or condition, including PSOB payments.⁷ To facilitate implementation of these offsets, the PSOB office and the VCF office have a data sharing arrangement in place, and officials said they communicate regularly about potentially dually eligible claims.⁸

According to BJA and VCF officials, the offset data verification process generally starts with the PSOB office sending a spreadsheet of all claims it has identified as potentially 9/11-related to

⁴The VCF program was initially authorized under title IV of the Air Transportation Safety and System Stabilization Act, Pub. L. No. 107-42, 115 Stat. 230 (2001) (see 49 U.S.C. § 40101 note). It was reauthorized in 2011 by the James Zadroga 9/11 Health and Compensation Act of 2010, and in 2015 by the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act. See Pub. L. No. 111-347, 124 Stat. 3659 (2011) and Pub. L. No. 114-113, §§ 401-405, 129 Stat. 2242, 3000-3018 (2015). The current VCF implementing regulations may be found at 28 C.F.R. pt. 104.

⁵The September 11th Victim Compensation Fund is comprised of VCF1 and VCF2. VCF1, under the original statutory authorization, was operational from 2001 through 2004. VCF2 began accepting claims in 2011 following the 2011 reauthorization, and will accept claims until December 18, 2020, under the most recent reauthorization. Individuals who file a claim for compensation from the VCF generally waive their right to sue for civil damages sustained as a result of 9/11. The VCF is administered by a Special Master appointed by the Attorney General, who determines the VCF compensation amount for each claimant, taking into consideration both non-economic losses (such as pain and suffering), and economic losses (such as lost earnings). The VCF is not limited to public service officers; compensation is available to any individuals (or their representatives) who were physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001, or the rescue and recovery or debris removal efforts during the immediate aftermath and who satisfy other eligibility criteria set forth by the VCF statute and implementing regulations.

⁶Pub. L. No. 112-239, § 1086, 126 Stat. 1632, 1964-69 (2013). Specifically, the statute provides that benefits payable under the PSOB program “shall be in addition to any other benefit that may be due from any other source, except payments under the September 11th Victim Compensation Fund.” 34 U.S.C. § 10281(f)(3). This provision generally took effect for PSOB claims pending as of January 2, 2013 or filed after that date. The PSOB program is also required to take certain other offsets; however those are outside the scope of this report.

⁷See sections 405(b)(6) and 402(6) of the Air Transportation Safety and System Stabilization Act, codified as amended at 49 U.S.C. § 40101 note. Specifically, the statute requires the Special Master to reduce the amount of VCF compensation by the amount of “collateral source compensation” the claimant has received or is entitled to receive as a result of 9/11. Collateral sources include, among other things, “life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001.”

⁸For ease of reference in this correspondence, we refer to the BJA officials who administer the PSOB program as “the PSOB office,” and we refer to the Special Master and the officials in DOJ’s Civil Division who administer the VCF as “the VCF office.”

the VCF office.⁹ The VCF office verifies whether any claims are in its system, adds to the spreadsheet information about their claim status, the amount of compensation awarded and paid, and the dates when compensation was awarded and paid, and then returns it to the PSOB office. Officials said this exchange generally occurs at least monthly. VCF officials also told us for each VCF claim “matched” against a PSOB claim, the VCF performs an additional “real-time” verification check before an award letter is issued and, again, before a payment is authorized for updated PSOB payment status.¹⁰

The Public Safety Officers’ Benefits Improvement Act of 2017 (Act) established a requirement for BJA to issue public reports every 180 days on PSOB claims.¹¹ The first report included claim information for the period June 2, 2017 through November 29, 2017; the second report covered November 30, 2017 through May 29, 2018.¹² The reports include, among other things, the number of PSOB claims relating to exposure due to the 9/11 terrorist attacks for which a final determination was made during the reporting period, and the average award amount for any such claims that were approved.¹³ These reports also include the number of claims that are eligible for compensation under both the PSOB program and the VCF program; the number of such claims for which BJA has made a final determination and the number that are still pending; and for any such claims that have been paid by the VCF program, the amount of compensation paid.¹⁴

The Act also included a provision for GAO to conduct a study on BJA’s compliance with the requirement to offset PSOB benefits by the amount of VCF compensation paid, and to review

⁹According to BJA officials, the PSOB office identifies claims that could be receiving VCF compensation by the applicant self-identifying that they are receiving VCF compensation, the applicant including information from the World Trade Center Health Program indicating the death or disability would make them eligible for VCF compensation, or claims examiners determining that the officer’s fatal injury or disability was the result of exposure to the hazards and toxins of the September 11th terrorist attacks, rescue, recovery, or cleanup.

¹⁰Dually eligible claims that require an offset are those in which the qualifying medical condition is the same for PSOB and VCF, according to VCF officials. The officials said there are instances when a claimant could be dually eligible for benefits where no offset is required due to differing medical conditions. For example, an officer could have made a claim for disability benefits under PSOB for an injured back due to a work-related car accident and receive PSOB disability benefits. This same officer’s family could claim death benefits from VCF for cancer related to the officer’s participation in 9/11 clean-up efforts. According to VCF officials, disability claim awards can be rescinded and recalculated in cases where the claimant died before the final disability payment was made. In addition, PSOB educational assistance benefits, which are beyond the scope of this report, are not subject to the offset.

¹¹Pub. L. No. 115-36, § 2, 131 Stat. 849, 849-51 (codified at 34 U.S.C. § 10285(e)(2)). The Act states that not later than 180 days after enactment (June 2, 2017), BJA shall publish on its public website a report, and shall update the report on the website not less than every 180 days thereafter. These reports are to contain specified information on PSOB claims, including among other things, information on BJA’s compliance with the PSOB offset requirement.

¹²The first and second 180-day reports were posted online within 2 months of the last day of their respective reporting periods. The third 180-day report covers the period May 30, 2018 through November 26, 2018 and was posted online about 4.5 months after the last day of the reporting period. According to BJA officials, prior to finalizing and posting the third and most recent 180-day report, significant consideration took place as to the methodology to determine the average number of claims processed per reviewer during the 180-day period preceding the report. Based on this consideration, a clarifying note was added to the report. In addition, the PSOB and Legal Offices have a combined staff of nine federal employees and due to the retirement of a PSOB office employee from federal service at the end of calendar year 2018, existing staff responsible for maintaining the PSOB data and preparing the weekly and 180-day reports, now must also process PSOB claims, according to BJA officials.

¹³34 U.S.C. § 10285(e)(2)(I).

¹⁴34 U.S.C. § 10285(e)(2)(O).

BJA's reporting on PSOB claims relating to 9/11.¹⁵ This report examines the extent to which BJA is 1) in compliance with requirements to offset benefits for claims that are eligible for both the PSOB program and the VCF program, and 2) accurately reporting information on PSOB claims related to 9/11 in its public reports.

To determine the extent to which DOJ offsets benefits for public safety officers who are eligible to receive them from both the PSOB and VCF programs, we electronically matched claims data from the two programs using five digits of the claimants' Social Security number, name, and date of birth. Our match considered all of the approximately 1,750 public safety officers who received PSOB benefits from 2013 to 2018 and the more than 23,500 claimants who received VCF compensation from 2001 to 2018 (some of whom were public safety officers).¹⁶ We reviewed these matched claims to verify whether an offset was correctly applied. In addition, we visited DOJ offices to conduct a case file review for any matched claims where it was unclear whether benefits had been offset accurately.

To determine the extent to which BJA accurately and publicly reports information on PSOB claims related to 9/11, we compared information on approved and denied PSOB claims contained in the two 180-day reports covering the period June 2017 through May 2018 with PSOB and VCF data.¹⁷ We verified whether relevant claims were included in the reports and examined the accuracy of the information reported.¹⁸ We interviewed DOJ agency officials responsible for the PSOB and VCF programs about internal documentation, procedures, and claims processing. We also assessed the reliability of the PSOB and VCF data by interviewing officials knowledgeable about the data, by performing electronic testing, and by tracing samples of data to case files. We found the data to be sufficiently reliable for the purpose of analyzing offsets and determining the accuracy of claims information in the 180-day reports.

We conducted this performance audit from May 2018 through July 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BJA Was Generally in Compliance with Processing of Offsets, Although a Few Errors Were Found

BJA was generally in compliance with the requirement to apply offsets for claimants dually eligible for benefits from both the PSOB and VCF programs during 2013-2018. We identified 91

¹⁵Pub. L. No. 115-36, § 2, 131 Stat. 849, 851 (codified at 34 U.S.C. § 10285(e)(3)).

¹⁶For PSOB data, we did not include years prior to 2013 because the Dale Long Public Safety Officers' Benefits Improvement Act of 2012 generally required the PSOB program to offset VCF compensation from PSOB claims pending on January 2, 2013, or filed after that date. We used VCF data from 2001 through 2018 because these PSOB claims could be required to offset VCF compensation that had been paid under VCF1 or VCF2.

¹⁷We did not include the third 180-day report because it was posted online after we conducted our analyses.

¹⁸We did not verify the accuracy of pending PSOB claims in the 180-day reports. Each report provides a snapshot of claim activity for the period, and PSOB data on pending claims is continuously updated as claims are resolved.

claims included in both programs' data that were eligible to receive an offset.¹⁹ However, our analysis found errors in two of the 91 claims we reviewed.

- One claimant was overpaid by \$250,000. PSOB officials said the error occurred because this claim was processed after the effective date of the law which required offsets (Dale Long Act) but before VCF and PSOB had a Memorandum of Understanding in place regarding how they will coordinate processing offsets.
- One claimant was underpaid by \$50,079. PSOB officials acknowledged the underpayment and said they intend to work with VCF officials to ensure the claimant receives the compensation they were eligible for.

BJA's Public Reports on PSOB Claims Related to 9/11 Contain Some Errors

We reviewed data on all 47 PSOB 9/11-related claims for which BJA reported making final determinations in its first two 180-day reports and found reporting errors related to these claims.²⁰ Specifically:

- Two claims were missing from the total number of final determinations on PSOB claims related to 9/11 that BJA reported in the 180-day reports.
- Five claims listed incorrect VCF compensation amounts.²¹ The compensation amounts were listed alongside incorrect claim identification numbers in the 180-day reports.
- Eighteen claimants showed \$0 for VCF payments, which according to BJA officials represent cases where a VCF payment was pending. Although this information may have been accurate at the time it was reported, it could be misleading and incomplete because it is not updated or corrected in subsequent reports. VCF officials said they send VCF payment information to PSOB for its records when payment amounts are finalized. BJA officials said they are not required to update claim information once PSOB has paid its claim.

These errors may be related to BJA's manual processes. BJA manages PSOB's caseload, in part, by using an electronic claims management system. However, the electronic system does not have the ability to generate the 180-day reports and BJA officials told us that they have no imminent plans to develop this capability. BJA's 180-day reports are produced manually by PSOB program officials who transcribe claims data maintained in spreadsheets and then publish the reports on PSOB's public website, according to BJA officials. BJA officials told us that multiple people review the 180-day reports to help ensure their accuracy, including claims specialists and managers. However, our analysis found multiple errors. As long as these reports

¹⁹The initial data match identified 101 approved claims included in both programs' data. Our analysis of PSOB data also identified 17 additional claims, which according to PSOB data also received a VCF award, but that were not present in the original VCF data provided to us. VCF subsequently provided data for these claims as well. Of these 118 claims identified in both programs' data, we determined that nine were cases in which the claimant was eligible for benefits under PSOB and VCF separately and no offset was needed, 17 were cases in which a decision about the claim or payment amount was still pending and thus no offset could yet have been taken, and one was a case that was not related to 9/11.

²⁰The first two 180-day reports include fewer than the 91 dually eligible claims that we reviewed as part of our analysis of offsets because these reports covered a shorter timeframe than our offsets analysis.

²¹All five claims were from the 180-day report covering November 30, 2017 through May 29, 2018.

are produced manually without more effective quality checks, errors will continue to occur. Internal control standards state that agencies should use quality information, including ensuring that data is processed and reported accurately.²² Without adequate quality control to verify the accuracy of claims data, BJA's 180-day reports may fail to provide policymakers the assurance that PSOB claimants with 9/11-related claims are receiving the correct offset benefit amounts.

Conclusions

The PSOB and VCF programs provide important disability and death benefits to public safety officers and their families who were affected by the terrorist attacks of September 11, 2001, or the cleanup work afterward. It is vital the two programs work well together to ensure benefits and offsets are accurate when recipients are eligible to receive compensation from both programs, and that required reporting on PSOB claims related to 9/11 is accurate and complete. Shortcomings in the way BJA coordinates and processes offsets, and then reports claims data in its 180-day reports suggest a need for improved quality control. Because BJA produces these reports manually, which makes them susceptible to transcription errors, and because BJA has no plan to automate this process, enhanced quality checks could ensure the accuracy of what is published. Without accurate reported information about these PSOB claims, policymakers may not be able to monitor program integrity effectively.

Recommendation for Executive Action

The Attorney General should direct the Bureau of Justice Assistance to enhance quality checks to ensure the accuracy of information in its 180-day reports about Public Safety Officers' Benefits claims related to public safety officers affected by 9/11. (Recommendation 1)

Agency Comments

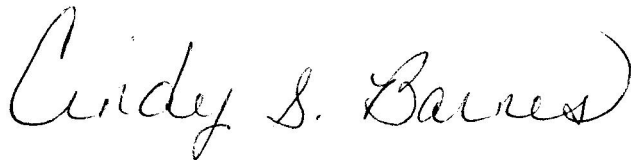
We provided a draft of this report to DOJ for review and comment. DOJ provided technical comments, which we incorporated into the report as appropriate. DOJ provided written comments, which are reproduced in full in enclosure I. The agency concurred with our recommendation and said BJA will develop and implement quality checks to confirm the accuracy of information reported in the 180-day reports related to PSOB 9/11 claims.

We are sending copies of this report to the appropriate congressional committees, the Attorney General, and other interested parties. In addition, the report is available at no charge on the GAO website at www.gao.gov.

²²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or brownbarnesc@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report include Kimberley Granger (Assistant Director), David Forgosh (Analyst-in-Charge), Michael Kniss, and LaToya King. Also contributing to this report were Susan Aschoff, James Bennett, Steven Campbell, Sarah Cornetto, Sheila R. McCoy, Almeta Spencer, Alexandra Squitieri, Janet Temko-Blinder, and Shana Wallace.

Sincerely yours,

A handwritten signature in black ink that reads "Cindy S. Barnes". The signature is written in a cursive, flowing style.

Cindy Brown Barnes
Director, Education, Workforce, and Income Security

Enclosure

Enclosure I: Comments from the Department of Justice



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

JUN 27 2019

Ms. Cindy Brown Barnes
Director
Education, Workforce, and Income Security
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Ms. Barnes:

Thank you for the opportunity to review and comment on the draft Government Accountability Office (GAO) report entitled, "Public Safety Officers' Benefits Program: Improvements Needed to Strengthen Processing and Reporting on 9/11-Related Claims" (GAO-19-521R). The Public Safety Officers' Benefits Program (PSOB), which is administered by the U.S. Department of Justice, Bureau of Justice Assistance (BJA), provides benefits to survivors of law enforcement officers, firefighters, and other first responders whose death, or catastrophic injury, was the direct and proximate result of an injury sustained in the line of duty. BJA, through its PSOB Office, reviews more than 1,000 claims submitted each year on behalf of America's fallen and catastrophically injured public safety heroes and their loved ones.

To determine these claims, the PSOB Office works closely with survivors, injured officers, and agencies to obtain the required documentation to comply with the PSOB law and its implementing regulations. While some claims are straightforward and clearly meet the criteria, others present significant factual and legal complexities that must be resolved before a determination can be made. In December 2018, the PSOB Office implemented the PSOB Program's web-based claims portal, or PSOB 2.0. PSOB 2.0 enhanced the submission and processing of all death, disability, and education claims by allowing claimants to submit supporting documents electronically. It also enhanced the PSOB Office's ability to manage and track the status and disposition of claims.

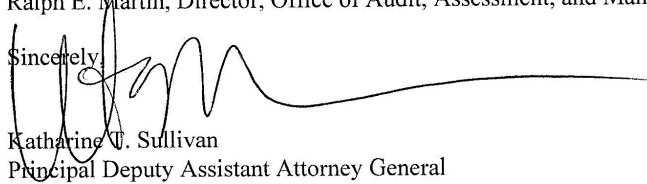
The draft GAO report contains one Recommendation for Executive Action, directed to the Office of Justice Programs (OJP). For ease of review, the recommendation is restated in bold text below, and is followed by OJP's response.

- 1. The Attorney General should direct the Bureau of Justice Assistance to enhance quality checks to ensure the accuracy of information in its 180-day reports about Public Safety Officers' Benefits claims related to public safety officers affected by 9/11.**

The Office of Justice Programs agrees with the Recommendation for Executive Action.
The Bureau of Justice Assistance will develop and implement quality checks to confirm
the accuracy of information reported in the 180-day reports related to PSOB 9/11 claims.

If you have any questions regarding this response, you or your staff may contact
Ralph E. Martin, Director, Office of Audit, Assessment, and Management, at (202) 305-1802.

Sincerely,



Katharine T. Sullivan
Principal Deputy Assistant Attorney General

cc: Lee Lofthus
Assistant Attorney General for Administration
U.S. Department of Justice

Maureen A. Henneberg
Deputy Assistant Attorney General

Ralph E. Martin
Director
Office of Audit, Assessment, and Management

Jon Adler
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Acting Director
Office of Communications

cc: Louise Duhamel
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Internal Review and Evaluation Office
Justice Management Division

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Text of Enclosure I: Comments from the Department of Justice

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Sincerely

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